THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

W.P.No.15030 of 1994

ORDER:

-

The petitioner approached this Court through this writ petition seeking to declare that the proceedings of the Director of Higher Education dated 17-06-1992 and the Commissioner
of Collegiate Education dated 20-07-1994, holding that the petitioner is not eligible for the U.G.C. scales of pay of Rs.2200-4400 and seeking recovery of the excess amount from the petitioner as illegal, against the principles of natural justice and without jurisdiction and to direct the respondents to restore the benefit conferred on him through the proceedings dated
18-03-1992 with consequential benefits with effect from
01-06-1992.

2. The petitioner alleged that he is working as a Lecturer in Commerce in Andhra Loyola College, Vijayawada. It is an aided minority institution entitled to the protection under Article 30 of the Constitution of India. He is an M.Com., Degree holder and also passed intermediate examination held by the Institution of Company Secretaries of India and a Diploma in Systems Analysis and Bank programming conducted by Datamatics Corporation, Madras. The minimum qualification for appointment as a Lecturer is passing of M.Com., degree in second class with not less than 55% of the marks. He is fully qualified to hold the
post of Lecturer in Commerce. He was appointed as a Lecturer
in Commerce in the third respondent college with effect from
31-12-1997. Since then, he has been functioning as a Lecturer. The Director of Collegiate Education issued proceedings dated 07-03-1992 to admit the petitioner into grant-in-aid with effect 31-12-1987 in the vacancy caused due to retirement of Sri A.S.Narayana Sarma. The Principal of the third respondent college submitted his salary statements to the Director, which was approved by the Director through the proceedings dated
18-03-1992 with a request to the Principal to pass the salary bill as per the approved statement. As per the approved statement, he was given the revised U.G.C. scales

of pay 1986 with effect from 01-01-1998. He was paid salary at the same rate till 31-05-1992. But, suddenly the Director of Collegiate Education issued the proceedings dated 17-06-1992 stating that as per G.O.Ms.No.520 Education dated 15-12-1988 of the Government of Andhra Pradesh, the petitioner is not entitled to draw the revised pay scale of 1986 till he qualifies in the NET test and until that time, he is entitled to draw the State scales of pay of Rs.1810-3230 instructing the Correspondent of the college to recover the excess amount paid to the petitioner in five monthly instalments. The petitioner, therefore, approached this Court through this writ petition seeking the reliefs as mentioned above.

3. The point for consideration is whether the petitioner is eligible to get the U.G.C. revised pay scales of 1986 without qualifying in NET?

4. The learned counsel for the petitioner submitted that though the petitioner is fully qualified to get the U.G.C. scale, the respondents erred in holding that the petitioner is not
eligible to continue to get the U.G.C. scale in the proceedings dated 17-06-1992.

5. As per G.O.Ms.No.520, dated 15-12-1988, the qualifications prescribed for the post of Lecturer are; 1) Masters Degree in the relevant subject with at least 55% of the marks or its equivalent grade and good academic record and 2) must be qualified in a comprehensive test (NET-National Eligibility Test). It was further mentioned that those who passed National Eligibility Test and fully satisfy the U.G.C. criteria will get the scales of pay of Rs.2200-4000 and others will draw the State scales of pay of Rs.1810-3230. It was further mentioned in the proceedings that the petitioner, who was appointed as a Lecturer in Commerce and whose appointment and salary statement was approved through the proceedings dated 18-03-1992, is not eligible to draw the revised pay scale of 1986 until he qualifies in a comprehensive test (NET) and till such time, he is eligible to draw the pay scale at Rs.1810-3230. The only objection that was raised in the proceedings dated 17-06-1992 is that the petitioner did not pass NET.

6. The Government of Andhra Pradesh through the memo dated 07-03-1992 permitted the Director of Collegiate Education to admit the petitioner into grant-in-aid with effect from
31-12-1987 A.N. The Director of Collegiate Education accordingly issued proceedings on 12-03-1992 admitting the petitioner into grant-in-aid with effect from

31-12-1987 with a request to the Principal of the college to send Annual Salary Statement of the petitioner for approval and return. The Director of Collegiate Education through the proceedings dated 18-03-1992 approved the salary statement of the petitioner by making necessary modifications in the particulars sent by the Principal of the third respondent college. As per the statement approved by the principal of the third respondent college, the pay of the petitioner @ Rs.2200-75-2800-100-4000 was approved by the second respondent, which was the revised scale of 1986 under the U.G.C. norms.

7. From the above proceedings, it is clear that the petitioner was admitted into grant-in-aid and he was extended U.G.C. scale by duly approving the salary statement given by the Principal of the third respondent college. Subsequently on 17-06-1992, the second respondent issued the impugned proceedings by mentioning that the petitioner is not eligible to draw the U.G.C. scale, since he did not pass the National Eligibility Test (NET). After receiving the proceedings of the second respondent dated 17-06-1992, the third respondent addressed a letter to the second respondent mentioning that as per G.O.Ms.No.159, dated 30-06-1990 persons appointed after 01-01-1990 should pass the eligibility test and as the petitioner and another person were appointed prior to 01-01-1990, they may be allowed to draw the U.G.C. scales of 1986. The third respondent also addressed the second respondent on 08-09-1993, 20-10-1993 and 05-01-1994 in this regard. The second respondent through the proceedings dated 20-07-1994 informed the third respondent that the petitioner and another person who were appointed after 01-01-1986 are not eligible for U.G.C. scales as they have not passed the NET. It was further informed that G.O.Ms.No.159, dated 30-06-1990 relates only to the Junior Lecturers promoted as Lecturers, hence, the request of the Correspondent is not feasible for compliance.

8. In G.O.Ms.No.159, dated 30-06-1990, it was mentioned that with effect from 01-01-1990 no person can be appointed as a Lecturer in any degree college in the U.G.C. scale, unless he passes an eligibility test to be conducted by the U.G.C. or an equivalent test conducted by anybody equivalent to U.G.C. or the CSIR/UGC for Junior Research Fellowships and also giving some concessions to the in service Junior Lecturers. In the notification issued on 11-05-1993 for National Eligibility Test 1993, there was a mention that U.G.C. has made the passing of National Eligibility Test a pre-condition for appointment of Lecturers in Degree College in the U.G.C.

scales of pay with effect from 01-01-1990. As per the notification, the candidates who have already done Ph.D or M.Phil up to 31-03-1991 or who have already qualified in the JRF tests of UGC/CSIR are exempted from appearing in the test for eligibility for Lecturership. The notification is clearly indicating that the National Eligibility Test is compulsory for direct recruits with effect from 01-01-1990. Similar notification was also issued on 06-06-1994 for the National Eligibility Test, 1994.

9. During the course of arguments, the learned counsel for the petitioner drew the attention of this court to G.O.Ms.No.11, dated 20-02-2004 and G.O.Ms.No.61, dated 16-07-2001.
In G.O.Ms.No.61, dated 16-07-2001, it was mentioned that the Lecturers who were appointed by direct recruitment after
01-01-1986 and existing Physical Directors/Lecturers, who are drawing the State scales also be exempted from passing the National Eligibility Test and they may also be allowed University Grants Commission scales and further ordered that all the future recruitments will be subject to the passing of National Eligibility Test.

10. In G.O.Ms.No.11, dated 20-02-2004, the Government directed that all the categories of employees who are regularly recruited in the aided degree colleges and who are on duty as on 01-01-1986 be exempted from passing the National Eligibility Test and they may be allowed University Grants Commission pay scales. The monetary benefit by virtue of the above exemption shall be only from the date of issue of the G.O. i.e., 27-03-2004. The above G.Os further clarified that the Lecturers who were appointed subsequent to 01-01-1986 and who were on duty as on 01-01-1986 are exempted from passing National Eligibility Test and they are allowed to draw University Grants Commission pay scales.

11. The learned Government Pleader, Smt. Niraja Reddy, submitted that the petitioner was not appointed as per the procedure prescribed under the Rules and as he was appointed subsequent to 01-01-1986 and did not pass NET, he is not eligible to draw the U.G.C. scale, therefore, the respondents
1 and 2 were right in passing the impugned order mentioning that the petitioner is not entitled for U.G.C. scale.

12. After carefully going through the correspondence and the proceedings issued by the respondents, it is clear that the appointment of the petitioner to grant-in-aid was approved and the U.G.C. scale of pay was also approved properly and the

proceedings dated 17-06-1992 was issued by the second respondent without referring to G.Os issued by the Government from time to time granting exemption to various types of Lecturers who were already in service as on 01-01-1990.

13. In the light of the orders issued by the Government from time to time, the petitioner is entitled to get exemption from passing NET and as he was already drawing the State scale of pay by the date of extending the benefit of U.G.C. scale, he is eligible to get the U.G.C. scale of pay at Rs.2200-4000 which was the revised scale of pay of 1986.

14. In the result, the writ petition is allowed. The proceedings of the respondents dated 17-06-1992 and
20-07-1994 are set aside. The petitioner is entitled for U.G.C. scale and the amount paid to him till 31-05-1992 is not liable to be recovered. The respondents are directed to work out the difference of the salary payable to the petitioner with effect from 01-06-1992 and arrange payment of the same within three months from the date of receipt of this order. No order as to costs.

_____

Dr.G.YETHIRAJULU, J

Date: -12-2005.

YCR